

## MINUTES



## REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD Council Chambers Thursday, September 25, 2003, 7:30 P.M. 777 "B" Street, Hayward, CA 94541

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### MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Zermeno, followed by the Pledge of Allegiance.

### ROLL CALL

Present: COMMISSIONERS Bogue, McKillop, Sacks, Fraas, Thnay  
CHAIRPERSON Zermeno  
Absent: COMMISSIONER Halliday

Staff Members Present: Anderly, Patenaude, Payne, Pearson,

General Public Present: Approximately 12

### PUBLIC COMMENT

None

### AGENDA

1. Conveyance of Surplus Property to the Adjoining Property Owner at 28 West Harder Road - (Planning Director Referral)
2. Site Plan Review No. PL-2002-0647 and Tentative Tract Map No. 7417/PL-2002-0661 - Dave Atwal for Altima Construction, Ltd. (Applicant/Owner) - Request to Subdivide a Half-Acre Parcel and Develop Six Townhomes - The property is located at 455 Laurel Avenue Between Flagg Street and Princeton Street
3. Site Plan Review No. PL-2003-0503 - Hayward Commons Building - Mullen, Morris and Alexander (Applicant) / Kimes and Morris (Owner) - Renovation of a Retail Building - The Project is Located at 22380 Foothill Boulevard Between Russell Way and San Lorenzo Creek
4. Use Permit Application No. PL-2003-0334 - Richard Pomares (Applicant) / Jim Morris (Owner) - Request to Operate a Nightclub and Bar in Conjunction with a Restaurant - The Property is Located at 22380 Foothill Boulevard Between Russell Way and San Lorenzo Creek

### PUBLIC HEARINGS

1. Conveyance of Surplus Property to the Adjoining Property Owner at 28 West Harder Road - (Planning Director Referral)

Survey Engineer Payne described the project as well as the surplus property to be offered to the adjacent property owner for yard purposes.

Chairperson Zermeño opened and closed the public hearing at 7:35 with no requests to speak.

Commissioner Sacks commended staff for the excellent project at Harder Road and **moved**, seconded by Commissioner MCKillop, to approve the staff recommendation.

Chairperson Zermeño also commended staff for the Harder Road improvement.

**The motion passed 6:0, with Commissioner Halliday absent.**

2. **Site Plan Review No. PL-2002-0647 and Tentative Tract Map No. 7417/PL-2002-0661 - Dave Atwal for Altima Construction, Ltd. (Applicant/Owner) - Request to Subdivide a Half-Acre Parcel and Develop Six Townhomes - The property is located at 455 Laurel Avenue Between Flagg Street and Princeton Street**

Associate Planner Pearson showed slides of elevations of the 455 Laurel Avenue project. He noted that the property had two homes on it. There was a fire following which the homes were demolished. Each unit has a private rear yard. The property is surrounded on three sides by apartment buildings. Staff asked for approval of the project.

Commissioner Sacks asked if there was sufficient space for the fire truck turn-around.

Associate Planner Pearson responded that there was and there would be no parking allowed in this area. It might be a small recreation area for children.

Principal Planner Patenaude reported that the Studio Walk project has similar facilities and conditions, where the turn-around also serves as a game court.

Chairperson Zermeño asked why there was no language for a condition of no garage conversion.

Associate Planner Pearson commented that it could be added but it was further noted that it is Condition 8.

Chairperson Zermeño noted that the rest of the street is in need of repair and asked whether this project could coincide with any scheduled street repairs.

Planning Manager Anderly noted that most of Laurel Avenue is in Alameda County and is not within the City's jurisdiction.

The Public Hearing was opened and closed at 7:45 p.m

Commissioner Bogue **moved**, seconded by Commissioner Sacks, to approve the staff recommendation with the following changes: Condition 8, change to read "these



requirements..."; as to resurfacing and repair of the roadway, combine one surfacing if the engineering staff feels it is appropriate to wait.

Commissioner Sacks commented that she had just driven to the area. The parking in the area is limited. She added that she really likes the project. She hoped that as much green is planted as possible.

Commissioner Thnay discussed whether approval of higher density housing in the City is coordinated with the parking requirement within the City of Hayward. He suggested a staff survey and study to determine whether the parking is adequate for each project. He also requested that a determination be made as to whether the CC&R's are adequate to the needs of the residents. Or should they be modified.

Chairperson Zermeño asked that the graffiti clause be changed from 10-days to 3-days.

Associate Planner Pearson responded that residential property is required to have a 10-day painting.

Chairperson Zermeño asked for a friendly amendment of a 7-day requirement.

Commissioner Sacks then asked for further clarification since Associate Planner Pearson had mentioned that the Municipal Code said 10-days for residential property.

Planning Manager Anderly explained that the Commission could require an earlier clean-up period.

Commissioner Sacks said that as second she would not agree to an earlier clean up.

The motion passed 6:0, with Commissioner Halliday absent.

3. Site Plan Review No. PL-2003-0503 - Hayward Commons Building - Mullen, Morris and Alexander (Applicant) / Kimes and Morris (Owner) - Renovation of a Retail Building - The Project is Located at 22380 Foothill Boulevard Between Russell Way and San Lorenzo Creek

Associate Planner Pearson showed renderings of the project. He described the project highlights and staff recommendation for approval. The entire building would be refaced. He discussed the windows that would be installed in the north wall.

Commissioner Bogue asked about Condition 11, the pass-thru corridor. He asked what was its purpose.

Principal Planner Patenaude reported that the service corridor is reserved for service access and customer use on an as-needed basis as well as for any future elevator or upstairs installation. He commented that staff is asking for the corridor to be secured and not available to the general public because there have been problems in the past with similar accessways.

Commissioner McKillop spoke in favor of the project saying it would be an improvement in the area. She asked whether the widening project of Foothill Boulevard would impact this owner. She then thanked the owner for his commitment to the area.

Principal Planner Patenaude noted that the owner has considered this as a possibility in the future but has made the decision to continue. He also mentioned that Condition 14 be changed to allow 24-inch lettering for signs because of the size of the building. He said staff felt this was appropriate.

Commissioner Thnay said the color rendering enhances the plan as well as the entire area. He asked if there would be any opportunity for landscape, particularly in the rear of the building.

Associate Planner Pearson said a landscape plan is already in place in compliance with the parking lot.

Principal Planner Patenaude stated that condition 17 has addressed that somewhat. Chairperson Zermeno asked to include a graffiti condition on the entire building of 3 days.

Principal Planner Patenaude said members were entitled to do this.

Commissioner McKillop noted that the Alcohol and Beverage Commission requires a three-day graffiti removal at locations where alcohol is served

The public hearing was opened at 8:09 p.m.

William Alexander, architect, said they have come up with a project with which they are pleased.

Lorraine Joseph, operator of beauty shop, asked for approval on the frontage of the building. She said this is a life-long dream of hers.

Jim Morris, owner of the building, said they have an approved building permit for the beauty salon. He explained circumstances that have delayed progress on the beauty salon.

The public hearing was closed at 8:12 p.m.

Commissioner Sacks **moved**, seconded by Commissioner Thnay, to accept the staff recommendation.

Commissioner Bogue asked about the staff report that described the use of logos and graphics would be encouraged, but not included in the signage.



Principal Planner Patenaude explained that if they are included as part of the sign ordinance. Graphics can be included and be considered on a case-by-case basis.

Commissioner Bogue asked about the parking lot behind the building, and whether there should be a fence between the creek and the parking lot.

Planning Manager Anderly said that was a good question for safety reasons, and staff will investigate.

Commissioner Sacks complemented the developers on the renderings and thought this was a refreshing project to Hayward.

Commissioner Thnay commended staff and stated that it is an important step and starting to look more like Palo Alto.

Chairperson Zermeño also commended the developer for an excellent addition to Foothill Boulevard.

The motion passed 6:0, with Commissioner Halliday absent.

4. Use Permit Application No. PL-2003-0334 – Richard Pomares (Applicant) / Jim Morris (Owner) - Request to Operate a Nightclub and Bar in Conjunction with a Restaurant - The Property is Located at 22380 Foothill Boulevard Between Russell Way and San Lorenzo Creek

Associate Planner Pearson described the project and showed a floor plan for the project. He said there is a full-service kitchen as well as a bar connecting the dining room with the banquet room. He noted the type of license being applied for and pointed out the full-service menu included in the report. Staff feels that encouraging this plan will create a more vibrant downtown. The concentration of alcohol establishments in the area will be offset by the entertainment and recreation value to the area. He added that one objection had been received from Commpr. Staff asked for approval.

Commissioner Thnay asked about whether the density and concentration of alcoholic establishments might be comparable to other downtowns around the area.

Associate Planner Pearson said staff did not have that information but might request it from the ABC.

Commissioner Thnay said it would be positive information for the Commission to have in making these determinations as to what a good downtown could absorb for the area.

Commissioner Sacks asked about conditions 27 and 28, dealing with the music and the hours.

She asked whether they were closing at 1 a.m. and whether security should not continue farther into the evening. She also asked about the requirement for seven security guards.

Associate Planner Pearson explained that the number of security guards was recommended by the Police Department based on the size of the building and similar experiences in the area.

Planning Manager Anderly said she thought the number of security guards required was high but when she asked, she was told that Mexicali Rose is required to have 10 when they have a major event. She explained that they might need security both inside and outside of the property.

Commissioner Bogue asked about condition 37 requiring food to be served at all times when alcohol is being served. He asked whether this requires the full menu to be available, as well as condition 38, the closing of the front doors at all times.

Associate Planner Pearson explained that staff is not requiring the full menu to be available. They could offer more limited menu later in the evening. He indicated that the condition regarding doors would apply to all the doors on Foothill.

Planning Manager Anderly explained that keeping the kitchen open during the hours when alcohol is served would allow the service of a variety of foods to patrons.

Commissioner Fraas asked about condition 25 regarding service of alcohol by midnight, yet the music continues until one a.m. She suggested that this might be why the security could leave at one since many of the patrons will have left by then as well.

The public hearing was opened at 8:21 p.m.

Richard Pomares, applicant, spoke in support of the plan. He indicated that a limited menu would be available to patrons. Security would also be available to make sure patrons get to their cars. He said they were not closing until 2 a.m. so he asked to be allowed to serve until at least 1 a.m., adding that most establishments legally serve alcohol until at least 1:45 a.m.

Commissioner Sacks suggested the conditions require a 1 a.m. closing time.

Mr. Pomares explained that they would like to stay open until 2 a.m. in order to go to a light breakfast menu between 1 and 2 a.m.

Associate Planner Pearson noted that staff had no requirement for the whole establishment to close at 1 a.m.

Chairperson Zermeno asked whether the commission could act on the request for the owners to continue serving alcohol past 1 a.m.

Planning Manager Anderly said they could since the conditions were merely recommendations by staff. She added that this is a land-use issue for a nightclub. The ABC license will be issued to Mr. Pomares and might establish more stringent hours.



Mr. Pomares showed examples of conditions from other cities as well as those from his establishment in Modesto.

Commissioner Bogue commented on the business plan submitted and expressed interest in the ratio of staff to guests.

Mr. Pomares explained that this is a guideline to make sure the establishment is adequately staffed for the needs of the number of customers.

Commissioner Thnay asked about condition 40 relative to noise and Casa Sandoval and whether the wall nearest their facility would prevent loud noise from reaching the residents.

Planning Manager Anderly explained that most of the residential units are above the first floor so a wall would not serve. It was her understanding that most of the windows of the residence facing the project are closed. She would not expect the noise level to be excessive.

Commissioner Thnay asked whether they were trying to recruit to high school students.

Mr. Pomares said that high school students would be their next line of customers and help. Chairperson Zermeno said he liked the name of the establishment "Downtown 238"

Mr. Pomares then thanked the Planning Department as well as Associate Planner Pearson for their help. He said he grew up in the area and thinks Hayward could use something like this. He added that the expansion of Foothill would not affect their plans until there is an actual implementation for a plan to start. They would move forward on this plan.

Commissioner McKillop asked about the financing for the proposal.

Mr. Pomares explained that he had brought in several individuals to help finance. He indicated that this would resemble a sports bar as well as live entertainment.

The public hearing closed at 8:43 p.m.

Commissioner Sacks commented on the possibility of increasing the hours of alcohol service.

Planning Manager Anderly suggested that increasing the hours of service might be accompanied by a clause to adjust them back were there problems associated with the extended hours.

Assistant City Attorney Conneely clarified that the ABC license would specify the hours for alcohol service. If ABC grants him a license to serve until 2 a.m., the City of Hayward cannot limit him to 1 a.m. The ABC license will control the service.

Commissioner Fraas asked whether the ABC could not determine the whole condition.

Planning Manager Anderly suggested that the ABC also considers local agency recommendations in making their determination. The Police Department has determined these hours and the ABC would look to these for guidelines.

Commissioner Sacks then asked about the security guards as to the limitation of the hours for security guards. She suggested that their hours be extended to a further time, in order to assure more safety when the business is closed.

Commissioner Bogue commented that their position was to review the conditions and recommendation. He then **moved**, seconded by Commissioner McKillop, with the following changes. Condition 28, the security shall continue "until 2 a.m." He added that this condition includes the discretion of the Chief of Police. He commented that condition 38 would need to be re-written to include remaining doors open to patrons.

Commissioner McKillop asked for a friendly amendment to condition 25 to the sale of alcohol until 1 a.m.

Commissioner Bogue agreed.

Commissioner Sacks said she really liked the project and sincerely wished them all the best.

Commissioner Fraas thanked the applicant for presenting an ambitious project, adding that also wished them good luck with it.

Commissioner Bogue said it was an ambitious, big project in a good location. He thought windows looking out to the creek would be great.

Chairperson Zermeño said they are all working toward the revitalization of downtown Hayward. He liked it all.

**The motion passed unanimously with Commissioner Halliday absent.**

## **ADDITIONAL MATTERS**

### **5. Oral Report on Planning and Zoning Matters**

Planning Manager Anderly announced that staff is working on a survey for the downtown transit oriented housing in order to determine the needs of the residents in the area. She added that the next meeting would be held on October 9.

### **6. Commissioners' Announcements, Referrals**

Commissioner Bogue commented that the Burlington Coat Factory grounds are overgrown again.

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Commissioner Sacks said she was interested in hearing comments from those who attend the Smart Growth workshop.

ADJOURNMENT

The meeting was adjourned by Chairperson Zermeño at 8:57 p.m.

APPROVED:

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Christopher Thnay, Secretary  
Planning Commission

ATTEST:

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Edith Looney  
Commission Secretary